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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/506,489	02/18/2000	Hiroaki Miura	040679/1012	8527

7590 08/16/2002

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EXAMINER

PIERCE, JEREMY R

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 08/16/2002

11

Please find below and/or attached an Office communication concerning this application or proceeding.

AS-11

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/506,489	MIURA ET AL.	
	Examiner	Art Unit	
	Jeremy R. Pierce	1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 June 2002.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 3-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All   b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's request for rejoinder is noted and the restriction will be re-evaluated when allowable subject matter is indicated.

### ***Priority***

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Claim Rejections - 35 USC § 102/103***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Matsukawa et al. (U.S. Patent No. 5,554,831) as set forth in section 4 of the last Office Action.

### ***Claim Rejections - 35 USC § 103***

5. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holtrop et al. (U.S. Patent No. 4,851,283) in view of Yoshida et al. (U.S. Patent No. 4,529,481) as set forth in section 5 of the last Office Action.

***Response to Arguments***

6. Applicant's arguments filed June 22, 2002 have been fully considered but they are not persuasive.
7. Applicant argues that it would not be obvious to modify the teachings of Matsukawa to achieve the claimed ranges due to the expectancy of increasing the spring constant of the fiber assembly at high weight concentrations of fiber fibers. This argument is supported because the pending application indicates that if the amount of polyester fiber having a denier of less than 1 exceeds 95 parts by weight, the sound absorbing material will increase the spring constant. And if the fine fiber is present in an amount of less than 20 parts by weight, no blending can be obtained. However, Matsukawa teaches the fine fibers comprise 30 to 80% by weight of the fine polyester fiber. There is no mention of the amount exceeding 95 parts by weight or less than 20 parts by weight. Secondly, Applicant's argument is based on the fact that reducing the spring constant is the goal of Matsukawa. Matsukawa achieves this goal by supplying fibers of less than 4 denier, preferably less than 2 denier, in an amount of 30 to 80% by weight, since finer fibers have a lower spring constant. Applicant is trying to argue that lowering the denier of the finer fiber would somehow increase the spring constant of the fibers, even though this is the exact opposite of the teaching provided by Matsukawa (column 3, lines 32-45). In addition, the Applicant fails to argue the 102(b) rejection. The 103 rejection was made in addition to the 102(b) rejection, which the Examiner feels is still valid, because "less than 2 denier" covers the Applicant's claimed range of "less than 1 denier". Furthermore, Matsukawa offers no suggestion that the denier of

the polyester needs to be more than 1 denier, so there is no reason that a person having ordinary skill in the art would not use fibers that are less than 1 denier.

Applicant's comparison of the prior art in Table 1 of the present application is not commensurate in scope with the Matsukawa reference.

8. Applicant argues that there is no motivation to combine Holtrop with Yoshida. However, Holtrop discloses that increasing denier of the fibers of the fabric improves the stiffness, but reduces the sound-absorbing properties (column 2, lines 56-67). Thus, if a person of ordinary skill in the art wanted a material with better sound-absorbing properties than those disclosed in Holtrop, then motivation would be present to lower the range of 1 to 15 denier for the polyester fiber to include fiber with a denier of less than 1, at the expense of stiffness of the material. Yoshida is used to show that polyester fiber of less than 1 denier is known in the art to be employed in sound absorbing material. Applicant argues that such a modification would render the material of Holtrop unsatisfactory for its intended purpose. The Examiner believes that altering the range of 1 to 15 denier sized fibers to include fibers of denier less than 1, such as 0.9 denier, would not greatly change the material disclosed by Holtrop. The motivation for this modification is to improve the sound absorbing abilities of the material. While it may weaken the material, the insulation produced could still find use in the art of sound absorbing material.

### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeremy R. Pierce whose telephone number is (703) 605-4243. The examiner can normally be reached on Monday-Thursday 7-4:30 and alternate Fridays 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (703) 308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Art Unit: 1771

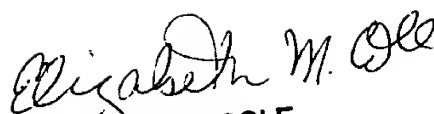


Jeremy R. Pierce

Examiner

Art Unit 1771

August 12, 2002



ELIZABETH M. COLE  
PRIMARY EXAMINER